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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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*Ex parte* RENE BITSCH and JAKOB STEEN HANSEN

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Appeal 2009-005210
Application 10/674,834
Technology Center 2100

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Decided: February 23, 2010

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Before LEE E. BARRETT, STEPHEN C. SIU, and JAMES R. HUGHES, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1, 4-13, 15-19, and 41. Claims 2, 3, 14, and 20 have been cancelled. Claims 20-40 have been withdrawn. We have jurisdiction under 35 U.S.C. § 6(b).

*The Invention*

The disclosed invention relates generally to developing and merging labels in modules for business solution software (Spec. 1).

Independent claim 1 is illustrative:

> 1. A computer-implemented method of creating a new label in a computer-implemented business integration system, wherein the new label is a computer-implemented user interface element configured to identify a control within a user interface associated with the business integration system, the method comprising:
>
> receiving data at an interface indicating a desired text for the new label;
>
> searching a label database for indications of existing labels that include text matching the desired text, wherein existing labels represented in the label database are computer-implemented user interface elements; and
>
> returning to a user, based at least in part on the results of the search of the label database, a list of existing labels that include text matching the desired text.

*The References*

The Examiner relies upon the following references as evidence in support of the rejections:

| | | |
|---|---|---|
| VanDenAvond | US 2003/0004946 A1 | Jan. 02, 2003 |
| Sugimoto | US 6,678,866 B1 | Jan. 13, 2004 (filed Jun. 30, 1999) |

*The Rejections*

1. The Examiner rejects claims 1, 4, 9, 10, and 41 under 35 U.S.C. § 102(e) as being anticipated by Sugimoto.

2. The Examiner rejects claims 5-8, 11-13, and 15-19 under 35 U.S.C. § 103(a) as being unpatentable over Sugimoto and VanDenAvond.

ISSUE 1

Appellants assert that "the text matching limitation of claim 1 is not disclosed by Sugimoto" (App. Br. 13).

Did Appellants demonstrate that the Examiner erred in finding that Sugimoto discloses searching a label database for indications of existing labels that include text matching the desired text?

ISSUE 2

Appellants assert that Sugimoto fails to disclose "the limitation of 'receiving data at the interface indicating how the new label is to be used'" (App. Br. 13).

Did Appellants demonstrate that the Examiner erred in finding that Sugimoto discloses receiving data indicating how a new label is to be used as recited in claim 41?

## FINDINGS OF FACT

The following Findings of Facts (FF) are shown by a preponderance of the evidence.

1. Sugimoto discloses a "label information data base . . . [that] stores label information" (col. 8, ll. 52-53).
2. Sugimoto discloses that "the computer system recognizes a sponsor identifier that specifies a sponsor . . . and that identifier is stored in the computer registry" (col. 14, ll. 4-7).
3. Sugimoto discloses that the "sponsor identifier stored in [the computer] registry is compared against the sponsor identifier in the label information" (col. 14, ll. 7-9). Sugimoto also discloses that the "sponsor identifier is compared against sponsor identifiers stored in a registry for the purpose of specifying a label for displaying an advertisement" (col. 11, ll. 36-39).
4. Sugimoto discloses that the "advertisement text files" may constitute "textual information that forms the advertisement proper" (col. 11, ll. 39-42).

## PRINCIPLES OF LAW

### *35 U.S.C. § 102*

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a

claim invalidates that claim by anticipation." *Perricone v. Medicis Pharm. Corp.,* 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted).

*Obviousness*

The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

"The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007).

ANALYSIS

Issue 1

The Examiner finds that Sugimoto discloses that the "identifier of the desired text string stored in [a] registry is compared against the identifier in the label information" (Ans. 15). We agree with the Examiner that Sugimoto compares (or matches) a sponsor identifier stored in a registry to a sponsor identifier stored in a label database (FF 2-3) and that an advertisement associated with a sponsor in Sugimoto contains "textual information" (FF 4). However, the Examiner has not demonstrated that Sugimoto also discloses that the text associated with an advertisement of a

particular sponsor is matched with text in a label database. Rather, Sugimoto appears to merely disclose matching an identifier in a registry with an identifier in a label database and displaying text associated with an advertisement of a sponsor that is identified by comparing or matching sponsor identifiers. We do not find, and the Examiner has not shown, that the text of the advertisement in Sugimoto is identified by matching the advertisement text to desired (advertisement) text.

In addition, the Examiner does not find that VanDenAvond discloses or suggests these features. Accordingly, we conclude that Appellants have met their burden of showing that the Examiner erred in rejecting independent claim 1, and claims 4-13 and 15-19, which depend therefrom.

Issue 2

The Examiner finds that "SUGIMOTO teaches how the label is to be used: the label information memory area wherein is stored label information for providing the area for displaying the notification or how to use the label (fig. 3 and fig. 6. also, see col. 2, lines 35-67, and col. 16, lines 30-40)" (Ans. 15).

Claim 41 recites receiving data that indicates "how the new label is to be used," "searching a label database" based on "the data indicating how the new label is to be used," and "returning . . . a list of existing labels" based on the results of the search of the label database.

The Examiner finds that Sugimoto discloses these features at column 2, lines 35-67 and at column 16, lines 30-40. However, without a more detailed explanation from the Examiner, we cannot agree that Sugimoto discloses receiving data indicating how a new label is to be used, searching a label database based on this received data, and returning a list of labels based on the search results.

Referring to the passages cited by the Examiner, we find that Sugimoto discloses a system that displays advertisements (or "notifications") in a "display area on a computer display screen" (col. 2, ll. 50-51) termed "labels." Sugimoto also discloses when a user uses a label a predetermined number of times, the system returns a message such as "'Thank you for 100 uses. We are always at your service.'" (Col. 16, l. 42). Thus, we find that the cited passages of Sugimoto discloses displaying advertisements (i.e., "notifications") associated with a sponsor at a designated area on a computer screen (i.e., "label") and also displaying a message when a "label" is used a predetermined number of times. The Examiner has not demonstrated how displaying advertisements of a sponsor at a designated area on a screen (Sugimoto) is equivalent to receiving data indicating how a new label is to be used, searching a label database based on the received data, and returning labels based on the search as recited in claim 41.

Accordingly, we conclude that Appellants have met their burden of showing that the Examiner erred in rejecting independent claim 41.

## CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that Appellants demonstrated that the Examiner erred in finding that Sugimoto discloses searching a label database for indications of existing labels that include text matching the desired text as recited in claims 1, 4-13, and 15-19, and receiving data indicating how a new label is to be used as recited in claim 41.

## DECISION

We reverse the Examiner's decision rejecting claims 1, 4, 9, 10, and 41 under 35 U.S.C. § 102(e) and claims 5-8, 11-13, and 15-19 under 35 U.S.C. § 103.

REVERSED

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